

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re NATIONAL CITY CORPORATION
SECURITIES, DERIVATIVE & ERISA
LITIGATION

) No: MDL 2003
) Case No.: 1:08-nc-70000-SO
) Judge Solomon Oliver, Jr.
)
)
)

This Document Relates To:

The Derivative Cases

Lerach v. Raskind, et al., No. 1:08-nc-70003-SO
Greve v. Raskind, et al., No. 1:08-nc-70005-SO
Hass v. Raskind, et al., No. 1:08-nc-70006-SO

) STIPULATION RELATING TO REPORT
) AND RECOMMENDATION AND
) WITHDRAWAL OF MOTION FOR
) LEAVE TO AMEND
)
)
)

WHEREAS the actions styled *Lerach v. Raskind, et al.*, No. 1:08-nc-70003-SO, *Greve v. Raskind, et al.*, No. 1:08-nc-70005-SO and *Hass v. Raskind, et al.*, No. 1:08-nc-70006-SO (the "Actions") were commenced in this Court as shareholder derivative actions filed on behalf of nominal defendant National City Corporation ("National City");

WHEREAS plaintiffs in the Actions filed a Verified Consolidated Shareholder Derivative Complaint (the "Complaint");

WHEREAS subsequent to the filing of the Complaint National City announced that it had entered into an agreement to be acquired by The PNC Financial Services Group, Inc. ("PNC");

WHEREAS following this announcement, nine separate putative class action lawsuits were filed in Delaware and Ohio state courts asserting nearly identical claims challenging the merger, including actions eventually consolidated in the Delaware Court of Chancery in an action styled *In re National City Corporation Shareholders Litigation*, Civil Action No. 4123-CC (the "Delaware Class Action");

WHEREAS also following the announcement of the proposed merger of National City and PNC, plaintiffs filed a motion to amend the shareholder derivative allegations to include class action allegations relating to the merger;

WHEREAS after the consummation of the merger of National City and PNC, the individual defendants moved to dismiss the Complaint on the ground that, as a result of the acquisition of National City by PNC, plaintiffs ceased to be shareholders of National City and therefore no longer had standing to pursue their derivative claims on behalf of National City;

WHEREAS plaintiffs did not oppose defendants' motion to dismiss for lack of standing except on the ground that the Court should abstain from ruling on the motion until plaintiffs' motion to amend was decided (*see* Plaintiffs' Opposition to the Individual Defendants' Motion to Dismiss for Lack of Standing (docket no. 79));

WHEREAS on July 29, 2009, Magistrate Judge Nancy A. Vecchiarelli issued a Report and Recommendation recommending that plaintiffs' shareholder derivative claims be dismissed for lack of standing;

WHEREAS on July 29, 2009, Magistrate Judge Vecchiarelli also recommended that the plaintiffs' motion to amend the Verified Consolidated Shareholder Derivative Complaint to add a class action claim arising from the sale of National City to PNC be granted;

WHEREAS just days later, on July 31, 2009, following notice to all class members and a public settlement hearing, Chancellor Chandler of the Delaware Court of Chancery issued an opinion approving the settlement of the Delaware Class Action, which provides for a release of all shareholder claims relating to the acquisition of National City by PNC, which defendants contends covers plaintiffs' proposed class claim.

IT IS HEREBY STIPULATED AND AGREED that:

1. The parties do not and shall not object to Magistrate Judge Vecchiarelli's recommendation that the Complaint be dismissed for lack of standing.
2. The parties agree that the dismissal of plaintiffs' derivative claims for lack of standing does not represent a judgment on the merits of those claims.
3. In light of the recent approval of the settlement of the Delaware Class Action, plaintiffs agree to and hereby do withdraw their motion for leave to amend.
4. The parties, through their respective counsel of record, consent to the Court's entering the enclosed proposed order and final judgment providing for a dismissal of the Actions.

DATED: August 20, 2009

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CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2009, a copy of the foregoing Stipulation Relating to Report and Recommendation and Withdrawal of Motion for Leave to Amend and [Proposed] Order and Final Judgment was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

s/ Adrienne Ferraro Mueller

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